APPENDIX A.

No. 10,523

26th Judicial District Court,

Webster Parish, Louisiana.

C. W. McCollum, et al

versus

Louisiana & Arkansas Railway Company, et al

PETITION

To the Honorable the Judge of the Twenty-sixth Judicial District Court holding Sessions in and for Parish of Webster, State of Louisiana:

The petition of C. W. McCollum, H. H. Pippen, J. R. Smith, J. H. Jones, F. L. Brewster, R. C. Bridges, A. D. Lowe, Joy Pippen, L. R. Malone, J. H. Johnson, R. R. Goss, Emmit Colvin, E. L. Goss, J. D. Booth, Joe Almond, G. C. Goss, W. J. Colvin, M. A. Liles, R. H. McCollum, all being residents of Webster Parish, Louisiana, and W C. Alford and A. M. Parker, both being residents of Winnfield, Louisiana, and J. M. Winderweedle and T. H. Guillory, both being residents of Shreveport, Caddo Parish, Louisiana, with respect represent:

I.

That your petitioners are employees of Louisiana & Arkansas Railway Company in the shops at Minden, Shreveport and Winnfield, Louisiana, and are employed in their respective capacities as carmen and carmen's helpers, and that their line of employment is governed by rules and regulations and contracts under which their employment was entered into and under which they are working at the present time.

II.

Petitioners further show that said petitioners are employees and in that capacity have acquired years of seniority, as will appear from the list marked "Exhibit A", attached hereto and made part hereof, which shows fully the years of seniority acquired by each of the plaintiffs herein. That said seniority was acquired by work and labor performed and contracts made with Louisiana & Arkansas Railway Company and dates back to the years written opposite each name as shown by Exhibit A; that this seniority right is a property right under the laws of this state.

III.

Petitioners further show that they entered the employment of the Louisiana & Arkansas Railway Company in good faith and complied with and concurred in and worked under the rules and regulations adopted by said railway company in the year 1931, and the contract made with Louisiana & Arkansas Railway Company in the year 1937, a copy of said rules as shown above being attached hereto and made part hereof.

IV.

Further show that they entered into their employment in good faith, a great number of the plaintiffs herein have purchased homes in the city of Minden, are married and are raising their families and are solely dependent upon their employment and the benefits to be derived from their employment and seniority with Louisiana & Arkansas Railway as their sole and only means of support, and that they have violated no rule or regulation of said railway company and are in good standing in every respect and were employed regularly and continuously until the action which will be set out hereinafter in detail, came about.

V.

Petitioners further show that some time in the past that the System Federation No. 59, Railway Employee's Department of American Federation of Labor, instituted a complaint against the Louisiana & Arkansas Railway Company before the National Railroad Adjustment Board in Chicago, Illinois, contending therein that certain former employees of the Louisiana & Arkansas Railway Company had certain grievances against said company, and asked for a hearing thereon; said cause of action bearing Docket No. 292 on the docket of the National Railroad Adjustment Board, and that a hearing was had on said complaint which was instituted by System Federation No. 59, Railway Employees Department of American Federation of Labor, and was defended by Louisiana & Arkansas Railway Company, and after hearing, an award was made, a copy of which is attached hereto and made part hereof for the purpose of showing "rem ipsam", and for that purpose alone.

VI.

Further show that in said award that the former employees of the Louisiana & Arkansas Railway Company who had been previously discharged, laid off or dismissed from service, were granted a judgment against L. & A. Railway Company ordering the payment of back salary and ordering their reinstatement with full seniority rights, and in short, granted to the defendant company the period of time until January 1, 1939 to comply with the award.

VII.

Further show that said award is null and void, of no force and effect as applicable to your petitioners herein, for the following reasons:

A. That your said petitioners herein were not parties to said litigation and had no notice thereof, nor were they made parties thereto, nor had they any knowl-

edge of the purpose of said litigation, nor were they granted any opportunity for hearing thereon.

B. That the said National Railroad Adjustment Board is without jurisdiction to decide seniority rights between employees of a railroad company.

C. That said award is incorrect and improper on its face; that the National Railroad Adjustment Board had no jurisdiction over a cause of action arising before its creation.

D. That no judgment of any court can be binding on a party thereto without first citing said party or having said party before the court.

E. That an enforcement of this award constitutes the taking of the plaintiffs' property without due process of law, and is in violation of Amendment 5 of Constitution of United States and in violation of Section 2 of Article I of Constitution of State of Louisiana.

VIII.

Petitioners further show that this award has become final insofar as the time is concerned as enumerated in said award, and that the plaintiffs in said award and the defendants therein are threatening to place same in effect and have gone so far as to discontinue the services of these plaintiffs herein until such time as this award will become final or be put into effect; that the said defendants in said award, Louisiana & Arkansas Railway Company has informed your petitioners that they will not be returned to work, that they will be deprived of their living and their rights under their seniority rights, and that their seniority rights will be completely nullified and destroyed by the placing in effect of this award; which award was rendered without the consent and knowledge of or participation by plaintiffs in any form; that, insofar as plaintiffs are concerned, this award is null and void, of no force and effect, unconstitutional in its scope and deprives them of their property and liberties without due process of law and is in violation of the Federal Constitution as well as the State Constitution.

IX.

Petitioners further show that the proposed reinstatement of the men named in the award to seniority rights as ordered by said Board, will deprive these plaintiffs and employees of their employment with the said railroad company, in that the said Louisiana & Arkansas Railway Company can and will employ such a limited number of men in the various crafts, and especially the carmen's craft, that these plaintiffs herein can and will have no opportunity to work under seniority rights that they hold, and, thereby and in actuality destroy the benefits that they have acquired by labor, services and contract. Further show that they will be immediately replaced by some of the men named in said award and will thereby be deprived of their seniority rights, employment and manner of making a livelihood, as hereinabove set out.

X.

Petitioners further show that their vested seniority rights which were acquired under contract and by labor and services rendered and performed, will be completely destroyed, nullified and of no benefit to them if this award is allowed to go into effect, and that your plaintiffs herein are entitled to have a day in court and have a hearing thereon, and until such time as said award becomes final in a court of competent jurisdiction qualified to pass on the seniority rights of the litigants herein, the Louisiana & Arkansas Railway Company and the System Federation No. 59, Railway Employee's Department of American Federation of Labor should be enjoined and restrained from interferring with or molesting the seniority rights or the rights of plaintiffs to work, and that their status quo should be maintained in relation to the railway company and be perpetuated in that form until such time as a court of competent jurisdiction holds to the contrary.

XI.

Further show that they have no legal remedy on this matter and it is necessary and proper that an equity jurisdiction of this court be called into existence to protect their property rights, seniority rights and their liberties and to hold same in status quo unmolested by the two defendants herein, and uneffected by any litigation of defendants or any compromise or agreement made by them, until such time as your plaintiffs are afforded an opportunity to present their claim and their position to a court of jurisdiction.

XII.

Further show that when they were employed by L. & A. Ry. Co. that they were assured by contract then in existence and the rules and regulations laid down for their employment by the railroad company, that their rights, seniority and liberties would be protected thereby, and that the rules of February 9, 1931 which are attached above, guaranteed that privilege; and, that on Oct. 20, 1937 a new contract was entered into by defendants herein and that it superceded the rules of Feb. 9, 1931, and that in said contract, their rights to work and their rights according to their seniority were guaranteed, and under said rules and contract as applicable to plaintiffs herein, no employee out of service for twelve months would have any rights to exercise seniority rights guaranteed theretofore. All of which is the law applicable to the parties hereto, renders said award, insofar as plaintiffs herein are concerned, null and void and of no force and effect, unconstitutional and inapplicable to their present status.

XIII.

Further show that Louisiana & Arkansas Railway Company is a corporation organized under the laws of the state of Delaware, but operating and doing business in the State of Louisiana with their principal place of business in the City of Shreveport, Louisiana, with a duly designated agent for service.

XIV.

Further show that System Federation No. 59, Railway Employees' Department of American Federation of Labor is a federation union domiciled in Webster Parish, Louisiana, with Stewart E. Stephens as Chairman and agent for service.

XV.

Further show that some of plaintiffs belong to a local craft, a great number of them are members of no craft or union, and that not one of plaintiffs herein authorized at any time or had any connection with or were party to the contest before National Railroad Adjustment Board, and not being a party to same nor notified thereof, are not bound in any wise by the judgment rendered therein.

XVI.

Further show that the monetary awards as rendered in the said award above referred to in no wise effects your petitioners and your petitioners have no interest therein and their complaint is aimed at the reinstatement and granting of seniority to the designated parties in said award which deprives your petitioners of their seniority rights, nullifies and destroys same without a hearing or without an opportunity for hearing before a court of competent jurisdiction.

XVII.

Further show that an injunction is necessary and proper to protect their interest in this litigation and that unless same issues that they will suffer irreparable injury, be deprived of their property without due process of law, deprived of their mode and manner of making a livelihood and rendered destitute, all without a hearing or an opportunity to be heard; that the injunction should issue herein as prayed for.

Wherefore Pray that rule nisi issue herein as the law directs, directed to Louisiana & Arkansas Railway Com-

pany though its duly authorized agent for service, and to the System Federation No. 59, Railway Employee's Department of American Federation of Labor, through its designated Chairman, and that they and each of them be ordered to show cause on a day and date to be fixed by this Honorable Court, why temporary injunction should not issue herein restraining both defendants and prohibiting them from putting into effect the award No. 281 of National Railway Adjustment Board, Second Division, and enjoining and restraining them from interferring with the employment of the plaintiffs herein or with their seniority rights or their employment, and to allow them to remain in status quo in regard to their employment with Louisiana & Arkansas Railway Company until such time as they are afforded an opportunity to present their claim to a court of competent jurisdiction or in the alternative and until such time as the award becomes final by a court of competent jurisdiction and an order enforced by a law court vested with jurisdiction of the cause of action; and until such time arrives, that this temporary injunction stay in force and effect, and on final hearing be made permanent, and that the two defendants remain enjoined and prohibited from interferring with the employment of the plaintiffs herein with Louisiana & Arkansas Railway Company under the rules, regulations and contracts now in effect, and until such time as their property rights and seniority rights and liberties are finally adjudged by a court of competent jurisdiction.

Further pray that on final hearing, that the said injunction be perpetuated and made the final judgment of the court, granting the relief above prayed for, and that the said defendants be permanently enjoined from in any wise effecting the status quo of the employment of the plaintiffs herein, until such time as prayed for above.

Further pray for all orders and decrees necessary and proper in the premises and for general and equitable relief.

A. S. Drew
Attorney for Petitioners.

AFFIDAVIT

STATE OF LOUISIANA,
PARISH OF WEBSTER:

BEFORE ME, the undersigned authority personally appeared C. W. McCollum, who states on oath that he is one of the plaintiffs in the above styled action and that the facts and allegations contained in the foregoing petition are true and correct; further states that unless the relief prayed for herein is granted, that he, as well as the other plaintiffs, will suffer irreparable injury.

C. W. MCCOLLUM.

SWORN to and subscribed before me on this the 9 day of January, 1939.

MYRTIS REAVIS,
Notary.

ORDER

Let rule nisi issue herein as prayed for, directed to the defendants through their authorized agents for service, and let each defendant be cited to appear and show cause, if any he has, on the 19th day of January, 1939 at 10:00 o'clock why the temporary injunction should not issue herein as prayed for.

Minden, Louisiana. this 10th day of January, 1939.

J. F. MCINNIS,
Judge.

Filed Jan. 10th, 1939, N. HAYS, *Dy. Clerk District Court.*

A True Copy
Attest: A. E. COLLINSWORTH,
Dy Clerk District Court

(SEAL)

No. 10523.

26th Judicial District Court,

Webster Parish, Louisiana.

C. W. McCollum, et al

versus

Louisiana & Arkansas Railway Company, et al

SUPPLEMENTAL AND AMENDED PETITION

To the Honorable Judge of Twenty-Sixth Judicial District Court Holding Sessions in and for Parish of Webster, State of Louisiana:

The supplemental and amended petition of C. W. McCollum, Joy Pippen, H. H. Pippen, J. R. Smith, J. H. Jones, F. L. Brewster, R. C. Bridges, A. D. Lowe, L. R. Malone, J. H. Johnson, R. R. Goss, Emmit Colvin, E. L. Goss, J. D. Booth, Joe Almond, G. C. Goss, W. J. Colvin, M. A. Liles, R. H. McCollum, all being residents of Webster Parish, Louisiana, and W. C. Alford and A. M. Parker, both being residents of Winnfield, Louisiana, and J. M. Winderweedle and T. H. Guillory, both being residents of Shreveport, Caddo Parish, Louisiana, having first obtained leave of court, with respect represent:

I.

That, since the filing of the original petition herein, your petitioners have been informed and allege same as true, that System Federation No. 59, Railway Employees' Department of American Federation of Labor, acting through its Chairman, Stewart E. Stephens, has addressed a letter to Louisiana & Arkansas Railway Company requesting a conference looking to the carrying out of Award No. 281 of National Railroad Adjustment Board and referred to in the original petition; that petitioners believe and fear that at

the said conference that the award above described will or might be put into effect and might become operative before hearing, which is set for January 19th, 1939, can be had; that, under the circumstances petitioners are entitled to a temporary restraining order directed to both defendants herein, and that they should be temporarily restrained and prohibited from placing said award in effect or from interferring in any wise with the employment of plaintiffs or status quo of plaintiffs in their employment with Louisiana & Arkansas Railway Company pending this hearing which has heretofore been set.

II.

Further show that unless this temporary restraining order is issued that they will suffer irreparable injury and that it is within the power of both defendants to place in effect the award above complained of, and that they are caucusing and conferring on same, and that any action that they might take would vitally effect petitioner and would deprive them of their property without due process of law and without opportunity for hearing and, in fact, nullify the original suit as herein filed and place plaintiffs in position that they would have no adequate remedy at law to adequately compensate them therefor; that as results of said conference if said award is placed in effect by compromise or otherwise that your petitioners herein will be discontinued from service with Louisiana & Arkansas Railway Company, their seniority rights deprived, annuled and destroyed, and that it is necessary and proper in the premises that the temporary restraining order issue as herein prayed for upon plaintiffs given bond in the amount fixed by this Honorable Court.

III.

Further show that this temporary restraining order should issue and restrain and prohibit both defendants, Louisiana & Arkansas Railway Company and System Federation No. 59, Railway Employees' Department of Ameri-

can Federation of Labor from placing in effect the award as above designated, or from doing any act that would in any wise interfere with the employment of the plaintiffs herein with Louisiana & Arkansas Railway Company or any act that might effect their seniority, and, in short, to prohibit and restrain said defendants from doing any acts that would destroy the status quo prior to this award above described.

Wherefore Pray that this amended and supplemental petition be allowed and that the attached affidavits considered, that temporary restraining order issue herein as the law directs upon plaintiffs furnishing bond conditioned as the law requires, directed to Louisiana & Arkansas Railway Company and to System Federation No. 59, Railway Employee's Department of American Federation of Labor, and that they and each of them be temporarily restrained and prohibited from placing into effect Award No. 281 of National Railroad Adjustment Board until such time as a hearing can be had thereon as now pending before this court, and that they stand enjoined, restrained and prohibited from in any wise interferring by compromise, acts, contracts or agreement that will in any wise effect the employment or seniority rights of your plaintiffs herein with Louisiana & Arkansas Railway Company, and to stand so enjoined and restrained until hearing can be had on the temporary injunction heretofore prayed for.

Further pray that this amended petition be allowed filed and that citation and service issue thereon; that all the other allegations of the original petition are herein fully adopted and reiterated as if written herein in full.

Further pray for all orders necessary and proper in the premises, according to the original and supplemental petition, and for judgment accordingly.

Further pray for full and general relief and costs.

A. S. Drew,
Attorney for Petitioners.

AFFIDAVIT

STATE OF LOUISIANA,
Parish of Webster.

BEFORE ME, the undersigned authority, personally came and appeared C. W. McCollum and Joy Pippen, who, after being duly sworn, depose and state:

That they are two of the plaintiffs in the above and foregoing suit and that the facts and allegations in the above and foregoing petition are true and correct and that they know of their own knowledge that System Federation No. 59, Railway Employees' Department of American Federation of Labor has applied by letter to Louisiana & Arkansas Railway Company for a conference looking to the carrying out of Award No. 281 of National Railroad Adjustment Board, and that unless said defendants are temporarily restrained and prohibited from entering into negotiations, that said plaintiffs will suffer irreparable injury thereby and their seniority rights and property rights be divested and taken from them, nullified and rendered useless without any process of law; that the suit heretofore filed will become useless and they have no other means of protection other than the relief herein sought, which will restrain, temporarily, the defendants from going any further in this matter until such time as the injunction suit can be heard.

C. W. McCOLLUM,
JOY PIPPEN.

SWORN to and subscribed before me on this the 11th day of January, 1939.

MYRTIS REAVIS,
Notary

ORDER.

Considering the above and foregoing amended and supplemental petition in light of the original petition and affidavits attached,

It Is Ordered, Adjudged and Decreed that temporary restraining order issue herein directed to Louisiana & Arkansas Railway Company and System Federation No. 59, Railway Employees' Department of American Federation of Labor, and that they and each of them be restrained and prohibited from in any wise compromising settling or adjusting Award No. 281 of the National Railroad Adjustment Board, or in any wise interferring with the employment of plaintiffs herein with Louisiana & Arkansas Railway Company, and to maintain in force and effect the plaintiffs relations with Louisiana & Arkansas Railway Company until such time as a hearing is had on the preliminary writ of injunction herein pending; said temporary restraining order issue upon plaintiffs furnishing bond in the sum of $500.00, conditioned as the law requires; that said restraining order be dated as to the hour, the minute, the day, month and year, as required by law, and be served on the defendants herein and remain in full force and effect until a hearing is had or as provided by law. Let the amended and supplemental petition be filed herein.

Thus done and signed at Minden, Louisiana, at 8:00 o'clock, A. M. on this 12th day of January, 1939.

J. F. McIxxis,
Judge.
26th Judicial District Court.

Filed Jany 12th, 1939, W. C. McKinney, Dy. Clerk District Court.
A True Copy

Attest: A. E. Collinsworth
Dy. Clerk District Court

(Seal)

No. 10523

26th Judicial District Court,

Webster Parish, Louisiana.

C. W. McCollum, et al

versus

Louisiana & Arkansas Railway Company, et al

TEMPORARY RESTRAINING ORDER

To System Federation No. 59, Railway Employees' Department of American Federation of Labor, Stewart E. Stephens, Agent for service, Minden, Webster Parish, Louisiana:

You and your agents and employees are hereby temporarily restrained and prohibited in the name of the State of Louisiana and the Twenty-sixth Judicial District Court for the Parish of Webster, from in any wise compromising, settling or adjusting Award No. 281 of the National Railroad Adjustment Board, or in any wise interfering with the employment of plaintiffs herein with the Louisiana and Arkansas Railway Company, and to maintain in force and effect the plaintiffs' relations with Louisiana & Arkansas Railway Company until such time as a hearing is had on the preliminary of injunction herein pending.

And you are so to remain, enjoined, restrained and prohibited until the further orders of this Honorable Court.

Witness the Honorable J. F. McInnis, Judge of the 26th Judicial District Court at Minden, Louisiana, this January 12th, 1939 at 2:35 o'clock P. M.

W. C. McKinney,
Deputy Clerk District Court.

PERSONAL SERVICE

Received the within Rule to show cause or Temporary injunction and certified copy thereof, together with certified copy of petition Jan. 12th, 1939 and on Jan. 12th, 1939; I served same by handing said certified copies to System Federation No. 59, Railway Employees' Department of American Federation of Labor, Stewart E. Stephens, Agent for service, Minden, Webster Parish, Louisiana the defendant herein named, in person at Minden, La. in Webster Parish, La.

E. NEWBERRY,
Deputy Sheriff.

Filed Jan. 31st, 1939, N. Hays, Dy. Clerk District Court.

A true copy,
Attest:
A. E. COLLINSWORTH,
Dy Clerk District Court.

No. 10523

26th Judicial District Court,

Webster Parish, Louisiana.

C. W. MCCOLLUM, ET AL

versus

LOUISIANA & ARKANSAS RAILWAY COMPANY, ET AL

TEMPORARY RESTRAINING ORDER

To the Louisiana and Arkansas Railway Company, C. P. Couch, Agent for service, Shreveport, Caddo Parish, Louisiana:

You and your agents and employees are hereby temporarily restrained and prohibited in the name of the STATE OF LOUISIANA and the Twenty-sixth Judicial Court for the

Parish of Webster, from in any wise compromising, settling or adjusting Award No. 281 of the National Railroad Adjustment Board, or in any wise interfering with the employment of plaintiffs herein with the Louisiana and Arkansas Railway Company, and to maintain in force and effect the plaintiffs' relations with Louisiana & Arkansas Railway Company until such time as a hearing is had on the preliminary writ of injunction herein pending.

And you are so to remain, enjoined, restrained and prohibited until the further orders of this Honorable Court.

Witness the Honorable J. F. McInnis, Judge of the 26th Judicial District Court at Minden, Louisiana, this January 12th, 1939 at 2:35 o'clock P. M.

W. C. McKINNEY,
Deputy Clerk District Court.

Received the within Restraining Order on the 16th day of Jan. 1939 and on the 16th day of Jan. 1939, I served the same on the within named Louisiana & Arkansas Ry. by handing a certified copy hereof together with certified copy of plaintiffs' petition to C. P. Couch, Agt. for Service, in person in Caddo Parish, La.

E. E. NOWELL,
Deputy Sheriff Caddo Parish, La.

Filed Jan. 17th, 1939, W. C. McKinney, Dy. Clerk District Court.

A true copy,

Attest:
A. E. COLLINSWORTH,
Dy Clerk District Court.